



**CITY OF SUNNYVALE
REPORT
Planning Commission
Heritage Preservation Commission**

February 28, 2005/March 2, 2005

SUBJECT: Clarify CEQA Requirements and Heritage Preservation Commission's Role in relation to the Heritage Preservation Code.

REPORT IN BRIEF

This report presents proposed changes to Chapter 19.96 of the Sunnyvale Municipal Code regarding Heritage Preservation. Staff has prepared amendments to the code that reflect changes made by the State in 1998 to the California Environmental Quality Act regarding environmental review for properties listed on local historic resource lists. This study ranked 2 of 4 for 2004. It was delayed when another study issue related to the sign code was determined to be more urgent and due to the workload of the office of the City Attorney.

The proposed Sunnyvale code changes codify additional steps to the City's environmental review process for Heritage Resource properties by providing greater opportunities for the Heritage Preservation Commission to comment when such resources are proposed to be modified or demolished. This report primarily addresses the processes related to Heritage Resources (the minor designation in Sunnyvale's code). Local Landmark properties and Local Landmark Districts in Sunnyvale already benefit from a greater level of environmental review by the Heritage Preservation Commission.

BACKGROUND

Sunnyvale's code was originally adopted in 1979 and updated in 1997. As currently written, the code allows demolition of some heritage resources with a 60-day newspaper notice without environmental review. Modifications, such as major architectural additions, also do not require environmental review under Sunnyvale's current code.

In 1998, the State adopted changes to the California Environmental Quality Act making it more difficult to modify or demolish a local heritage resource without additional environmental review. CEQA section 21084.1 regarding Historic resources, assumes that resources listed on a local register are presumed to be

historically or culturally significant for purposes of CEQA, unless the preponderance of evidence demonstrates that the resource is not significant. To assure compliance with CEQA, staff started requiring owners of heritage resource properties to provide professionally prepared historic evaluations to determine the historic significance of each affected property when major modifications or demolition were contemplated. The evaluations were used as “the preponderance of evidence” to determine if environmental review was required prior to taking action on modification or demolition plans. The professional evaluations are prepared by a State-qualified historic architect and use the criteria from Sunnyvale’s Municipal Code that refers to the Criteria of the National Register of Historic Places to evaluate the significance of the property.

In most cases, properties listed as local heritage resources in Sunnyvale do not meet National Register Criteria and staff has approved modification (in accordance with City design guidelines) or demolition with appropriate noticing in the newspaper. In most cases, the Heritage Preservation Commission has not been involved in the decision making process, because the code limits their authority to reviewing changes to Local Landmarks and Local Landmark Districts such as properties on the 100 block of Murphy Avenue.

There are currently 72 Heritage Resource properties in Sunnyvale’s inventory. Since 1979 there have been approximately 24 Heritage Resources that have been demolished. By practice, the City Council only placed properties on the Heritage Resource inventory when a property owner agreed.

EXISTING POLICY

Heritage Preservation Sub-Element

Goal 6.3B: *To enhance, preserve and protect Sunnyvale’s Heritage, Including natural features, the built environment and significant artifacts.*

Policy 6.3B.1: *Preserve existing landmarks and cultural resources and their environmental setting.*

DISCUSSION

Staff has evaluated the City’s current Heritage Preservation Code in relationship to the California Environmental Quality Act (CEQA). Although the City is not out of compliance with CEQA by practice, the code did not make the process clear to anyone who wanted to make an alteration to a Heritage Resource or to demolish it. The intent of the original code appeared to be very lenient when Heritage Resource properties were involved, as opposed to

Landmarks. The changes in CEQA require that the City first assume that each Heritage Resource is significant unless proven otherwise, and that the City take a more thorough and cautious look at Heritage Resources when changes are proposed.

The Municipal Code does not have language that identifies the procedures associated with major remodels and demolition. Working closely with the office of the City Attorney, staff has developed language that outlines the role of the Heritage Preservation Commission, introduces and clarifies the definitions of terms and establishes a new type of permit (Resource Alteration Permit).

In section 19.96.030 Responsibilities, in section (g) the role of the Heritage Preservation Commission is proposed to be expanded to include not just review of changes to Landmarks but also changes to Heritage Resources and Heritage Resource Districts including environmental review.

In section 19.96.040 Definitions, there is minor “clean up” language related to the definition of a Heritage Housing Combining District. The City has only one such district on the 400 blocks of South Frances Street and South Taaffe Street. This change does not affect the review of architectural changes to properties in this district. Those changes are regulated by a policy that was adopted when the district was zoned.

In section 19.96.065 Ranking of heritage resources, alteration process, is a proposed new code section. The proposed code changes clarify the hierarchy of historic designations used in the Sunnyvale code. These changes, for the most part, do not change any interpretation. They attempt to simplify and clarify the designations already used in the code. However, under section (d) related to Heritage Resources, there will now be a new permit – a Resource Alteration Permit - that will go to the Heritage Preservation Commission for review for material, exterior changes (alterations, relocation, demolition) to a Heritage Resource. Previously, there has only been a “Landmark” alteration permit. Creating this new permit will expand the role of the Heritage Preservation Commission beyond its previous role established in 1979. The proposed code change makes a provision for minor modifications to Heritage Resources that can be reviewed by staff through the Miscellaneous Plan Permit process.

Section 19.96.095 Construction, demolition, relocation, or material change to heritage resource or heritage resource district is a proposed new section. The most significant effect of this proposed section is procedural. It not only readdresses the availability of the new Resource Alteration Permit, it clarifies that if the Heritage Preservation Commission reviews a historic evaluation and finds that a listed resource is not culturally or historically significant, the project shall be referred back to staff. This new code section also adopts the

existing procedures for a Landmark Alteration Permit to also be used for the new Resource Alteration Permit.

Section 19.98.120 Showing of hardship expands the ability to consider hardship to the applicant when reviewing the new Resource Alteration Permit. This section is already available when considering Landmark Alteration Permits.

FISCAL IMPACT

There is a minor fiscal impact to the City expected as a result of the proposed code changes which will result in more permits and more staff time devoted to the Heritage Preservation program. It is estimated that staff may see two-three requests per year for either a major alteration or demolition of a resource. Owners of Heritage Resource properties will experience a fiscal impact for preparation professionally prepared historic evaluations (approx. \$1,600-\$3,000) and for fees paid for Heritage Preservation staff review and hearings. If Council approves modification to the code, staff will include a fee for a Resource Allocation Permit in the 2005/2006 Fee Resolution. Staff anticipates a fee similar to a minor review to a Landmark Alteration Permit (currently \$160).

CONCLUSION

Changes to the Municipal Code regarding Heritage Preservation and environmental review that codify current staff practices and strengthen the Heritage Preservation Commission's role could clarify the procedures needed for modification or demolition or heritage resources. The codified changes will make the review process available to the general public.

PUBLIC CONTACT

Notices of the public hearings were sent to all owners of Heritage Resources and Landmarks properties in Sunnyvale.

ALTERNATIVES

Recommend that the City Council:

1. Adopt the attached draft ordinance as proposed by staff and establish a new fee for minor and major Resource Alteration Permits.
2. Adopt the attached draft ordinance with modifications.
3. Do not adopt the attached draft ordinance.

RECOMMENDATION

Staff recommends Alternative 1 to adopt the attached modifications to the Heritage Resource code, because they will address changes to State environmental law by making clear the role of the Heritage Preservation Commission in the review process and codify the appropriate process. Changes in the code will not affect owners of Heritage Resource properties unless they wish to architecturally modify or demolish their property. At that time, the process will involve more public review than previously.

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Attachments

Exhibit 1: Study Issue Paper

Exhibit 2: Proposed Ordinance

Exhibit 3: List of Sunnyvale Heritage Resources and Landmarks